

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION**

GREGORY GILLILAN, :
Plaintiff, :
VS. : **CIVIL ACTION FILE
NO. 1:06-CV-82 (WLS)**
KAREN DOUGLAS, :
Defendant. :

RECOMMENDATION

The Court having noted that the last activity undertaken by the Plaintiff in this action occurred on December 1, 2006, ordered him on December 15, 2008 to show cause by January 2, 2009, why this case should not be dismissed for his failure to diligently prosecute same as required by Federal Rule of Civil Procedure 41(b). (Doc. 14). The Plaintiff has failed to respond to the show cause order which was not returned to the Clerk of Court as undeliverable.

Under Rule 41(b) of the Federal Rules of Civil Procedure, a case may be dismissed upon a determination of a "clear record of delay or willful contempt and a finding that lesser sanctions would not suffice." Goforth v. Owens, 766 F.2d 1533, 1535 (11th Cir. 1985). Litigants proceeding *pro se* are not exempted from this requirement of diligent prosecution. Moon v. Newsom, 863 F.2d 835 (11th Cir. 1989). The court's inherent power to dismiss cases in which the plaintiff has failed to diligently prosecute his action "is necessary in order to prevent undue delays in the disposition of pending cases and to avoid congestion in the calendars of the District Courts." Link v. Wabash R.R., 370 U.S. 626, 630 (1962).

A review of this action as set out above reveals a clear record of delay or willful contempt on the part of the plaintiff. The plaintiff has taken no meaningful steps to prosecute his case

since filing a motion for a continuance on December 1, 2006, which was subsequently denied. The plaintiff has had more than adequate time to pursue his claim against this defendant but he has failed to do so. Based on the above findings, the court finds that lesser sanctions will not suffice herein. Accordingly, it is the RECOMMENDATION of the undersigned that the plaintiff's case be dismissed for his failure to prosecute same. Pursuant to 28 U.S.C. § 636(b)(1) the parties may file written objections to this recommendation with the Honorable W. Louis Sands, United States District Judge, WITHIN TEN (10) DAYS of being served with a copy of this recommendation.

SO RECOMMENDED, this 3rd day of February 2009.

/s/ Richard L. Hodge

RICHARD L. HODGE
UNITED STATES MAGISTRATE JUDGE